MEMORANDUM
Texas Department of Human Services

TO: Long Term Care-Regulatory
Regional Directors and State Office Managers

FROM: Jeanoyce Wilson, Unit Manager
Long Term Care-Regulatory (LTC-R) Policy
State Office MC: W-519

SUBJECT: Regional Survey & Certification Letter #03-04

DATE: April 14, 2003

The attached Centers for Medicare and Medicaid Services (CMS), Regional Survey and Certification (RS&C) Letter is being provided to you for information purposes and should be shared with all professional staff.

- RS&C Letter No. 03-04 – State Agency Responsibilities Following Completion of Nursing Home Informal Dispute Resolution

If you have questions about Department of Human Services enforcement policies and procedures, please contact the LTC-R Enforcement Section at (512) 438-2626.   For questions related to sanctions documents, please contact the LTC-R Sanctions Unit at (512) 438-2133 or (512) 438-2405.

[signature on file]

Jeanoyce Wilson

JW:cos

Attachment

c: Evelyn Delgado, E-340
    Paul Leche, W-615
    Merrie Duflot, W-404
    Regional Administrators

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
Division of Survey and Certification, Region VI

1301 Young Street, Room 827
Dallas, Texas 75202
Phone (214) 767-6301
Fax (214) 767-0270

March 24, 2003

Regional Survey and Certification Letter No. 03-04

To: All State Survey Agencies (Action)
       All Title XIX Single State Agencies (Information)

Subject: State Agency Responsibilities Following Completion of Nursing Home Informal Dispute Resolution

CMS developed a process for nursing home enforcement in Chapter 7 of the State Operations Manual (SOM) to include Informal Dispute Resolution (IDR). The Dallas RO is not consistently receiving complete IDR results in a timely, appropriate manner. This letter clarifies the responsibility of the State Survey Agency (SSA) to provide IDR results to the Regional Office. The rationale for sharing this information is to ensure each enforcement action is supportable.

The State Operations Manual, Section 7212, specifies in general terms what the State Survey Agency (SSA) must do when Informal Dispute Resolution (IDR) modifies or deletes deficiencies on the CMS-2567. The SSA must:

(1) make changes to the CMS-2567 and to the appropriate CMS database (ASPENCO),

(2) provide a clean copy CMS-2567 if requested by the provider and the provider agrees to provide a new plan of correction that is signed,

(3) adjust the scope and severity assessment to reflect the changes made to individual citations, and

(4) re-evaluate the remedies recommended to CMS or State Medicaid.

The SOM provides the SSA discretion to change enforcement recommendations post IDR. However, CMS expects the State to notify the RO of the results of IDR whether or not enforcement recommendations change. Therefore, for any enforcement action sent to the RO, the State must:

(1) Notify the RO of the IDR results whether or not SSA remedy recommendations change.

(2) Notify the RO if the SSA modifies its remedy recommendations.

CMS/
CENTERS for MEDICARE & MEDICAID SERVICES

The RO provides the following procedure:

A. **No changes in SSA remedy recommendations to CMS following IDR:** The State will send the RO a copy of the facility letter detailing the findings of the IDR within 10 working days.

B. **Changes in SSA remedy recommendations and/or changes in the CMS 2567:** The SSA will send the RO a copy of the letter sent to the facility detailing the findings and rationale of the IDR and a revised enforcement packet within 10 working days of the IDR completion

This procedure is effective immediately. You should send the results of any IDR conducted for current enforcement actions. We will continue to request the results of IDR on a case by case basis for enforcement actions that have concluded (i.e. substantial compliance has been determined). If you have any questions please contact Theresa Bennett by telephone at 214/767-4406 or by e-mail at Tbennett1@cms.hhs.gov.

Sincerely,

David Wright, Chief
Long Term Care Branch
Division of Survey and Certification